

Zawitoski, John

From: Criss, Jeremy
Sent: Friday, November 08, 2013 1:38 PM
To: Navarro, Nancy; Rice, Craig; Floreen, Nancy; Leventhal, George; Elrich, Marc; Andrews, Phil; Berliner, Roger; Ervin, Valerie; Riemer, Hans
Cc: Zyontz, Jeffrey; McMillan, Linda; Gibson, Cindy; Tibbitts, Dale; Zawitoski, John
Subject: Agricultural Advisory Committee Recommendations-Zoning Rewrite-ZTA 13-04
Attachments: AACZoning Rewrite-ZTA13-04November.doc

Dear County Council Members,

Attached you will find three remaining agricultural issues regarding the Zoning Rewrite-ZTA 13-04.

Please include the attached letter in the public record for the Public Hearings that are scheduled next Tuesday and Thursday.

Please understand the specific wording recommended by the AAC was developed using the existing language in the Zoning Code.

We attempted to use the proposed changes as drafted by the MNCPPC but due to the multiple changes and colors contained in the MNCPPC document it was decided to use the existing language in the Zoning Code. Please let us know if you have any questions.

Thanks J

Jeremy V. Criss
Agricultural Services Manager
Department of Economic Development
Agricultural Services Division
18410 Muncaster Road
Derwood, Maryland 20855
301-590-2830
301-590-2839 (Fax)
jeremy.criss@montgomerycountymd.gov
<http://www.montgomerycountymd.gov/agservices>



AGRICULTURAL ADVISORY COMMITTEE

November 8, 2013

The Honorable Nancy Navarro
Montgomery County Council President
100 Maryland Avenue

Rockville, MD 20850

Dear Council President Navarro: Zoning Rewrite- ZTA 13-04

The Montgomery County Agricultural Advisory Committee-AAC would like to provide this summary of three remaining agricultural issues that we feel needs further consideration during the discussions on the Zoning Rewrite ZTA 13-04. During our October 15, 2013 meeting the AAC recommended the three remaining issues should be forwarded to the County Council for additional consideration.

Accessory Uses to Farming-Off site transport of agricultural products:

The AAC recommends that additional considerations are needed to the Accessory Uses to farming in light of the recommendations submitted to the County Council on September 10, 2013 from the Food Recovery Work Group as outlined below:

Planning and Protocols for Recovery and Reuse of Non-edible Food

The Work Group continues to recommend that Montgomery County should declare that its policy is to recover food. Under such a policy, the County would have three priorities: (1) recover and deliver food that can be used by people, (2) create systems to feed animals food that cannot be used by people but is still edible, and, (3) compost remaining inedible food.

As noted in the Work Group's Interim Report and the resolution establishing the Work Group, the Department of Environmental Protection estimates that in 2011, 19% of the waste stream was food waste and another 18% was classified as "other organics." Of the food waste, 28,769 tons was from restaurants, 14,014 tons was from supermarkets, and 5,301 tons from schools.

The AAC recommends specific changes are needed to the Zoning Regulations to fulfill the above recommendations of the Food Recovery Work Group. The Agricultural community can benefit by creating systems to feed animals food that cannot be used by people but is still edible and

compost remaining inedible food to generate additional farm income and/or to be applied to farm fields as a soil conditioner.

The current definition of Use, Accessory as outlined below needs to be revised with a new last sentence to address the recommendations of the Food Recovery Work Group and to incorporate additional flexibility for specific products that are included as accessory uses to Farming. The definition of use, accessory implies the use must be accessory to the lot or record. We need specific products included as accessory to farming to be produced-generated off site and transported to the lot of record where the accessory use is located.

Use, accessory: A use which is (1) customarily incidental and subordinate to the principal use of a lot or the main building, and (2) located on the same lot as the principal use or building. A temporary structure or trailer used for construction administration or real estate sales in conjunction with and during the period of development, construction or sales within the same site or subdivision in which it is located is an accessory use. Products included as accessory uses to farming can be produced or generated off-site and transported to the lot of record where the accessory use is located.

The current definition of Farm Market listed below includes wording that is extremely helpful to understand this AAC recommendation because 25 percent of farm food products sold can be produced or generated off-site.

Farm market: The display and retail sale from a farm of: (1) agricultural products produced on the farm where the farm market is located, or (2) agricultural products produced on another farm under the control of the owner or operator of that farm market. A farm market includes the display and sale of farm food products certified as non-potentially hazardous by the Department of Health and Human Services. Up to 25 percent of the farm market display and sales area may be used for display and sale of agricultural products not produced on a farm under the control of the owner or operator of the farm market. In the event of crop failure due to drought, insect damage, disease, or other cause beyond the control of the owner or operator of the farm market, the Department of Permitting Services upon the recommendation of the Department of Economic Development and the Montgomery County Agricultural Advisory Committee may allow for a limited period of time more than 25 percent of the farm market display and sales area to be used for agricultural products from off the farm where the farm market is located.

Agricultural Vending-Removing restrictions for acres and number of lanes on roadways:

Agricultural Vending is permitted in most of the residential zones in accordance with footnote 53 as outlined below. When the Council approved ZTA 09-11 the agricultural community was encouraged that Agricultural vending would be permitted in most of the residential zones and increase opportunities for the sale of fresh agricultural products in down county areas where most of the County residents work and live. Also the ZTA 09-11 would provide greater economic opportunities for farmers to sell agricultural products to make money. The Agricultural community did not believe the ZTA 09-11 would impact existing Vendors that were approved by the DPS. Over the past year the agricultural community has learned how the footnote 53 is adversely impacting Vendors as they obtain annual approval from the DPS. There are vendors in

the County that have been in operation since 1996 when Chapter 47 was adopted creating the Vendors program. Some of these Vendors are site specific vendors approved by the DPS under Chapter 47 to operate in the public right of ways and therefore they do not have a lot or parcel larger than 2 acres and some are located along roads with less than 4 lanes. Some of these Vendors are located on private property with the approval of the owner and these lots or parcels are less than 2 acres. This situation can negatively impact the Vendors that have been in business since 1996. In discussing this matter with Council Roger Berliner's Chief of Staff Cindy Gibson she understands how the ZTA 09-11 has created some challenges for vendors and suggests revisiting the conditions of the footnote 53. The AAC recommends below the specific changes to the Footnote 53 to address the needs of all vendors.

⁵³ At least 100 feet from a dwelling, a vendor who is a Certified Agricultural Producer under Chapter 47 regulations is permitted to sell produce on a lot or parcel:

- 1) used for non-residential purposes other than agricultural vending;
- [2) larger than 2 acres in size;]
- [3)] 2) abutting a roadway with [4] 2 or more lanes; and
- [4)] 3) if the structure or vehicle used for sales remains in the same location for less than 24 hours.

Winery-Allowing Weddings to be considered as permitted events:

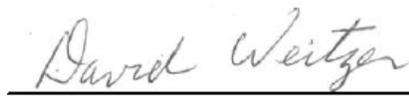
A winery is permitted by right and by special exception in the RDT zone with reference to footnote 38 as outlined below. The definition of events does not include events like weddings. The Agricultural Advisory Committee-AAC recommends below specific wording that weddings should be allowed as permitted events as part of a winery in the Rural Density Transfer-RDT zone.

38 Permitted by right if no more than two public events are held per year; however, in the RDT zone, a winery is permitted by right if:

- (1) no more than 9 days of events that require an entrance ticket or a cover charge are held per year; and
- (2) weddings are also allowed as permitted events and
- [(2)] (3) the lighting level at any property line does not exceed 0.1 footcandle.

The AAC thanks the County Council for this opportunity to present our views on the Zoning Rewrite ZTA 13-04 and please let us know if you have any questions.

Sincerely,


David Weitzer, Chairman